IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

AS.No. 199 of 1994()

OS.260/1987 of PRL.SUB COURT,THRISSUR
.....

APPELLANT: PLAINTIFF

ARAVINDAN, S/O.NANIKUTTY AMMA,
KAVIL VEETTIL HOUSE, THALAPPILLY TALUK,
CHEMANATTA VILLAGE, PAZHUNNANA DESOM.

BY ADV. SRI.KURIAN GEORGE KANNANTHANAM

RESPONDENTS: DEFENDANT

MOHANAN, S/O.MANGALATH PARANGODAN,
CHOVANNUR VILLAGE, KAVANAM CHITTUR DESOM,
THALAPPILLY TALUK.

BY ADV. SMT.PREETHY KARUNAKARAN

THIS APPEAL SUITS HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

A.S.No.199 of 1994

Dated this the 28th November, 2007.

J U D G M E N T

The plaintiff in O.S.No.260/87, on the file of the Subordinate Judge's Court, Thrissur, is the appellant. Appellant filed the suit for money alleging that respondent borrowed an amount of Rs.50,000/= from the appellant on 15.9.1984, on executing a demand promissory note in his favour. According to the appellant, in spite of repeated demands, the respondent did not repay the amount.

2. The defendant admitted the signing of a pro note. But it was contended that he did not receive any amount. It was contended that there was an agreement of sale of Metador Van between the defendant and the wife of the plaintiff. The consideration fixed was Rs.60,000/=. According to him, the pro note was signed as security for the balance amount, and subsequently, he discharged that

debt also. According to him, there was no transaction between himself and the plaintiff, and making use of the note signed by the respondent, he has filed the suit.

3. The trial court, after appreciating the evidence found that the case put forward by the defendant is proved and the transaction was in between the wife of the plaintiff and the defendant, and the pro note was executed, as contended by the defendant, and dismissed the suit. The trial court relied on the evidence of Dws. 1 to 4 and found that the respondent did not receive any amount from the appellant. It was also found that the circumstances clearly indicate that Ext.A1 pro note might have been executed as security for the money due to the wife of the plaintiff towards the price of the Metador van sold to the defendant. The contention of the defendant that it was executed without consideration as the plaintiff insisted for execution of such a promissory note in order to grant time for payment of portion of value of the Metador van sold to the defendant appears to be true. That is a finding of fact based on good evidence. So, there is

no scope for interference in this appeal. Even if this appeal is admitted, no useful purpose will be served. Hence, this appeal is to be dismissed under Order XLI Rule 11 of Civil Procedure Code.

In the result, this appeal is dismissed.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

A.S.No. 199 of 1994

J U D G M E N T

Dated: 28th November, 2007.